

## **REMARKS/ARGUMENTS**

Claims 10, 11, 13-15, 53, 54, 56, 86-90 and 92-95 remain pending in the instant application. All claims presently stand rejected. Applicants amend claims 10, 53, and 86. Claim 86 has been amended to incorporate claim 95 and claim 95 is cancelled. Applicants assert that no new matter is added herein as amendments to claim 86 are supported at least by prior claim 95.

Applicants respectfully request reconsideration of the pending claims in view of at least the following remarks.

### **I. Claims Rejected Under 35 U.S.C. § 103**

Claims 10, 12-15, 53, 55-56 and 86-93 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent 6,177,931 to Alexander et al. (Herz) in view of Aras et al. (US Patent 5,872,588) in further view of Herz et al. (US Patent 5,758,257). Claims 11 and 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent 6,177,931 to Alexander et al. (Herz) in view of Aras et al. (US Patent 5,872,588) in further view of Herz et al. (US Patent 5,758,257) in further view of Proehl et al. (US Patent 6,990,676).

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

#### **Independent Claim 10**

Amended independent claim 10 now recites, in pertinent part

    sending demand data feedback from the client to the server  
    after a predetermined amount of pieces of content has been utilized  
    since the last time demand data feedback was sent to the server and  
    the demand data related to the utilized pieces of content has been  
    generated for a predetermined threshold count of a plurality of  
    pieces of content rated,

    wherein the generation of demand data related to the pieces of  
    content described by the content descriptors comprises receiving  
    explicit user input regarding specific pieces of content, the explicit  
    user input comprising generating a list of absolute rating numbers  
    of some of the pieces of content for some of the pieces of content  
    available.

Applicant respectfully submits that the combination of the prior art cited by the Examiner fails to teach or suggest wherein the generation of demand data related to the pieces of content described by the content descriptors comprises receiving explicit user input regarding specific pieces of content, the explicit user input comprising generating a list of absolute rating numbers of some of the pieces of content for some of the pieces of content available.

Alexander teaches that the EPG records the viewer's actions and the circumstances surrounding those actions, such as when the viewer changes channels; provides instruction to record or watch a program; or changes volume (Col. 28 lines 30-52). Consequently, the Patent Office has not identified and Applicants are unable to find any teaching or suggestion of the above noted limitation of claim 10 in Alexander.

Aras teaches detecting changes in channels, such as from a remote or a controller or a channel changer (Col. 15 lines 34-57). Consequently, the Patent Office has not identified and Applicants are unable to find any teaching or suggestion of the above noted limitation of claim 10 in Aras.

Herz teaches that a customer may be asked to state his/her most preferred level for a characteristic for a viewed section of a video just viewed, such a level of action of a movie segment (Col. 14 lines 10-35). Herz describes generating initial customer profiles by having customers either giving acceptable ranges for characteristics which identify a video program (see col. 12, lines 11-32), where such characteristics include film genre, directors, actors, degree of sex, degree of violence, degree of profanity, MPAA rating, etc. (see col. 11, lines 45-57). Alternatively, the user can develop an initial customer profile by giving a specific rating for each category (see col. 12, lines 11-22). However, neither of these situations describe an absolute rating number for pieces of content as required by the claim.

Herz also describes content profiles generated by questionnaires completed by a panel of experts or customers to determine the objective characteristic scores for the media to compare to the user profiles (see col. 13, lines 12-28). Thus, this also does not describe a user generating demand data indicating a relative desirability of pieces of content by listing absolute ratings of pieces of content, prior to sending the demand feedback data to a server after a predetermined amount of pieces have been utilized, as required by claim 10. Instead, it is simply questionnaires filled out by groups of people to determine, for example, that the movie "Lots of Blood" is a

more violent movie than the movie "Beautiful Day," so that when a user's profile indicates that the user prefers non-violent movies, the server knows to send "Beautiful Day" to the user rather than "Lots of Blood."

Herz also teaches that a user may provide active feedback referred, to as a "rave review," by reviewing short sections of different video programs, each characterized by a few characteristics and the objective characteristic levels of those characteristics, and then based on that experience, identifying his or her most preferred level for the characteristic (see col. 14, lines 11-28). For example, a user may review "Lots of Blood," which is assigned an action value of 8, and then based on that experience, the user may know that the user prefers a rating of between 4 and 6 as an acceptable range for the characteristic "action" (see col. 14, lines 11-28). Thus, this also does not describe generating a list of absolute rating numbers for the pieces of content, but instead describe selecting a preferred acceptance range for a characteristic that may be associated with various different content.

Consequently, the Patent Office has not identified and Applicants are unable to find any teaching or suggestion of the above noted limitation of claim 10 in Herz.

Also, Proehl et al. (US Patent 6,990,676) (cited against claims other than claim 10) fails to cure the deficiencies of the references noted above. The Patent Office asserts that Proehl teaches that previews of future television programs can be locally stored at the client (see col. 14, line 67 – col. 15 line 17; and col. 17 lines 15-25). However, the Patent Office has not identified and Applicants are unable to find any teaching in Proehl of the above-noted limitations of amended claim 10.

In addition, by receiving explicit user input comprising rating numbers as claimed, embodiments described in the specification of the present application, for example, without limitation thereto, provide the benefits of: (a) providing demand data generated by considering explicit user feedback at the client or based on previous user behavior or content consumption (specification page 13 lines 19-21; claims 10, 53 and 94); (b) so that demand data feedback can be sent from the client to the server after the demand data related to the utilized pieces of content has been generated for a predetermined threshold count of a plurality of pieces of content rated (claim 10) where the demand data comprises explicit user input comprising ranking or rating numbers for users who generate the explicit input at different rates (specification page 24 line 10 through page 25 line 5; claim 87); (c) such as to customize the amount of data sent in the

feedback for different bandwidth connections between the client and the server (specification page 8 lines 1-19; line 21 through page 25 line 3; and claim 86). However, none of the cited references provide any of these benefits.

Hence, Applicants respectfully request the Patent Office withdraw the rejection above for independent claim 10.

Next, Applicants respectfully disagree with the rejection above for claim 53 for at least the reason that the cited references do not teach or suggest to send demand data feedback to the server after a predetermined amount of the pieces of content has been utilized since the last time demand data feedback was sent to the server and the demand data related to the utilized pieces of content has been generated for a count of the number of pieces of content rated that exceeds a predetermined threshold number, wherein the generation of demand data related to the pieces of content described by the content descriptors comprises receiving explicit user input regarding specific pieces of content, the explicit user input comprising generating a list of absolute rating numbers for some of the pieces of content available, as required by amended claim 53. An argument analogous to the one above for claim 10 applies here as well. Hence, for at least the reasons above for claim 10, Applicants respectfully request the Patent Office withdraw the rejection above for claim 53.

Next, Applicants disagree with the rejection of claim 86 for at least the reason that the cited references do not teach or suggest sending demand data feedback from the client to the server after the demand data related to a predetermined amount of pieces of content is generated for a predetermined threshold count of a plurality of pieces of content rated after the predetermined amount of pieces of content have been utilized, the demand data feedback to indicate the relative desirability of the pieces of content available for future broadcasts, wherein the generation of demand data related to the pieces of content described by the content descriptors comprises receiving explicit user input regarding specific pieces of content, the explicit user input comprising one of ranking a relative order of some of the pieces of content available, and generating a list of absolute rating numbers for some of the pieces of content available wherein the threshold is selected considering a bandwidth capacity of a connection between the client and the server, as required by amended claim 86.

Alexander teaches that the EPG records the viewer's actions and the circumstances surrounding those actions, such as when the viewer changes channels; provides instruction to

record or watch a program; or changes volume (Col. 28 lines 30-52). Herz teaches that a customer may be asked to state his/her most preferred level for a characteristic for a viewed section of a video just viewed, such a level of action of a movie segment (Col. 14 lines 10-35). Also, Proehl et al. (US Patent 6,990,676) (cited against claims other than claim 10) fails to cure the deficiencies of the references noted above. However, none of the references teach or enable the above-noted limitations of amended claim 86.

In addition, Applicant traverses the Official Notice that bandwidth capacity is considered when transmitting data between a client and a server (this Official Notice was cited against prior claim 95 which has been incorporated into claim 86). First of all, this Notice does not address the limitations of the claim, which require "sending demand feedback data from the client to the server after the demand data related to a predetermined amount of pieces of content is generated for a predetermined threshold count of a plurality of pieces of content rated after the predetermined amount of pieces of content have been utilized . . . wherein the threshold is selected considering a bandwidth capacity of a connection between the client and the server," as required by claim 86. These limitations require selecting a threshold count for sending demand feedback data, where the count is pieces of content rated and is selected considering the bandwidth capacity between the client and the server. Thus, selecting the predetermined threshold count requires considering two factors. Specifically, selecting considers how many pieces of content rated are required to generate an amount of demand data feedback data that will have an impact on a low or high bandwidth capacity connection, such as so that the connection is not overloaded with data (e.g., see page 8 lines 1-19; and page 24 line 15 to page 25 line 5 of the application). However, none of the references teach or enable such a consideration.

Moreover, Applicant traverses the Official Notice and requests the Patent Office provide a reference in support of the claimed limitation, as noted above, in accordance with MPEP § 2144.03.

Hence, for at least the reasons above, Applicants respectfully request the Patent Office withdraw the rejection above for claim 86.

## **II. Dependent Claims**

The dependent claims not mentioned above are non-obvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own.

Accordingly, Applicant respectfully requests that all of the rejections above of the claims be withdrawn.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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Angelo J. Gaz

Registration No. 45,907

1279 Oakmead Parkway  
Sunnyvale, California 94085-4040  
Telephone (310) 207-3800  
Facsimile (408) 720-8383

### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted to the United States Patent and Trademark Office electronically via EFS Web on the date shown below.

  
Jessica Huester

10/29/08  
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